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SUBJECT: AMBASSADOR MEETS WITH NEW JUDICIAL NGO

Classified By: POLITICAL COUNSELOR ABELARDO A. ARIAS FOR REASONS 1.4 (d
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Summary

1. (C) Members of the newly constituted Venezuelan judicial NGO "Foro Penal" (Penal Forum) briefed the Ambassador June 23 on their organizational goals and informed him of the group's work to date. The group released a report June 6 criticizing the politicization of the justice system in Venezuela and filed a motion with the Supreme Court June 27 condemning the March reform of the penal code. Leaders of the group told poloffs they intend to continue focusing attention on the deterioration of the rule of law in Venezuela. End Summary.

Foro Penal

2. (C) Foro Penal was founded by a group of Venezuela's most prominent defense lawyers, supported by alleged political prisoners and their family members. The group announced its formation at a June 6 press conference called to release a report criticizing the politicization of the Venezuelan justice system, and was formally constituted as an NGO on June 22. Monica Fernandez, founder of the Venezuelan judicial NGO Foro Penal (Penal Forum), briefed the Ambassador June 23 on the origins of the group. Three of the 13 defense attorneys who helped her establish the group, plus the wife of the former Secretary for Security of metropolitan Caracas under Mayor Alfredo Pena being held on allegedly political charges, accompanied Fernandez. Fernandez told the Ambassador the group was apolitical and committed to providing proof of the deterioration of the rule of law in Venezuela. She stated that the group had an ambitious agenda and limited resources. The Ambassador recommended that the group work to support broad concepts and principals, rather than focusing on individual cases. He suggested that the group seek broad-based funding and support, and suggested they present a specific proposal for AID funding, provided they were aware of the associated risks.

Justice System Report - Three Prosecutors Share the Pie

3. (U) Foro Penal's June 6 report criticizes the politicization of the justice system in Venezuela. Fernandez said Foro Penal delivered its report to President Chavez and the heads of public institutions. During the news conference releasing the report, Fernandez alleged that the judicial and prosecutorial authorities in Venezuela had progressively undermined the rule of law in Venezuela since the events of April 2002. For example, Fernandez said, Foro wanted to draw the public's attention to the abuses committed in the prosecution of over 400 persons for their alleged participation in the events of April 2002.

4. (U) Foro Penal's report summarizes the various criminal proceedings opponents of President Hugo Chavez allege to be political, and documents violations of judicial and prosecutorial independence, including firings. Using graphs, the report demonstrates that less than 1% of Venezuela's prosecutors have all the political cases, and that three prosecutors are involved in all of them (Gilberto Landaeta, Luisa Ortega and Jose Benigno Rojas). The graphs also indicate that the government is concentrating political cases in only three out of 49 Control Judges and two out of ten appeals courts, now under the rubric of the "anti-terrorism" jurisdiction established following the assassination of prosecutor Danilo Anderson.

5. (C) Fernandez told the Ambassador June 23 that GOV reaction to the report so far has been limited. The only official response has been Attorney General Isaias Rodriguez's accusation that the report is tied to the opposition since Foro Penal's members represent many of the

alleged political prisoners. She said a pro-government legislator had warned them that what was coming was worse, and that the group had heard rumors of detentions and prohibitions to leave the country in the near future.

Penal Code Motion

16. (U) In its second action, Foro Penal filed a motion June 27 with the Supreme Court (TSJ) arguing that the National Assembly's March 16 modification of the penal code is unconstitutional. The motion identifies approximately 30 articles in the reform that directly conflict with the current constitution and therefore make the reform, according to Foro Penal, impossible to apply. The group has also publicly criticized the National Assembly's additional modifications of the penal code which passed a first reading June 21 for further limiting constitutional guarantees and conflicting with five laws currently in effect.

17. (C) Fernandez told the Ambassador she believed the TSJ would reject the motion. Nonetheless, she said, it is important to create a public record of what was happening before it caused an implosion of the rule of law. She reported that Foro Penal had traced every article in the reform to a specific political event - strike, marches, etc.

Plans for the Future

18. (C) The group informed the Ambassador that they plan to request the resignation of Attorney General Rodriguez, because of his self-proclaimed inability to do his job and his politically partisan behavior. They also have two studies in the works. The first is a national census of victims of political persecution via criminal proceedings. So far the group claims to have documented 600 cases, but believes the figure many go as high as 1000. The second study involves the actions of judges in political cases that would track how many defense motions were rejected and how many prosecution motions were accepted. Foro Penal suggested that the figure was 95% rejected for the defense and 95% accepted for the prosecution. The group also plans to hold forums, especially among law students.

Comment

19. (C) The Foro Penal has gotten off to a good start. After months of failings and setbacks in their cases, and ineffectually protesting in the press that the GOV was abusing the rule of law, this group of lawyers formed common ground. The use of graphs to display the concentration of political cases in the hands of just a few prosecutors and judges was a dramatic success. The key to Foro's future success will be its ability to spread the message about the poor, politicized state of Venezuela's justice system. Fernandez is a convincing advocate, with an astute command of the facts. Herself a victim of the politicization of Venezuela's judiciary, having been suspended without pay earlier this year for her handling of a case related to the April 2002 events, she decided to put the focus on the larger picture and brought together the baker's dozen of defense lawyers whose individual efforts on political cases was diffuse. The project they have embarked upon is new territory for all of them. We will maintain contact to see how we can help this, and other emerging groups call attention to the threat to the rule of law in Venezuela.
Brownfield